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10/044,976	01/15/2002	Peter Hooglander	71135-0006	2769

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CLARK & BRODY  
1090 VERMONT AVENUE, NW  
SUITE 250  
WASHINGTON, DC 20005

EXAMINER
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GLASS, RUSSELL S

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/044,976

Applicant(s)

HOOGLANDER, PETER

Examiner

Russell S. Glass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/6/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/15/2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/15/02, 8/30/02</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 17 and 21 are objected to because they are separated from the dependent claim upon which they depend. A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 2, 4-7, 9-17, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf, (WO 97/22092) in view of Armstrong, (U.S. 6,140,936).**

3. As per claim 1, Wolf discloses a method of providing medical information in emergency and non-emergency situations comprising:

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- a) providing a first medical information-containing electronic device, adapted to have non-medical information and medical information read and stored thereon, (Wolf, P. 16, ¶ 1);
- b) providing a second medical information-containing electronic device, the second medical information-containing electronic device adapted to contain the same information found on the first medical information-containing electronic device with the information being freely accessible from a reader, (Wolf, p. 16, ¶ 1; p. 21, ¶ 4)(disclosing a general access area with all users having access rights, said general access area being freely accessible);
- c) maintaining the same medical information on each of the first and second devices, (Wolf, P. 16, ¶ 1) (disclosing general and medical information on both cards);
- d) simultaneously updating non-medical information or medical information on the first and second devices in a non-emergency situation, and reading information on the second device in at least an emergency situation, (Wolf, p. 5, ¶ 2-p. 6, ¶ 1; p. 12, ¶ 1) (disclosing that both cards must be inserted in to separate readers for writing to the cards, and that one card carried by the patient contains physician contact information to be used in both emergency and non-emergency situations).

Wolf fails to disclose a means for carrying the second device such that the second device can be accessed by medical personnel if a user is incapacitated. However, such a carrying device is well known in the art as evidenced by Armstrong, (Armstrong, Abstract, col. 5, line 56-col. 8, line 31) (disclosing wearing an electronic medical information card as a jewelry item).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wolf and Armstrong in the manner claimed by the applicant. The motivation would have been to provide a means of safely carrying electronic medical data, (Armstrong, Col. 5, lines 56-66).

4. As per claim 2, Wolf discloses a system for providing medical information in emergency and non-emergency situations comprising:

- a) a user first medical information-containing electronic device, adapted to have non-medical information and medical information read and stored thereon, (Wolf, P. 16, ¶ 1);
- b) a second medical information-containing electronic device, the second medical information-containing electronic device adapted to contain the same information found on the first medical information-containing electronic device with the information being freely accessible from a reader, (Wolf, p. 16, ¶ 1; p. 21, ¶ 4)(disclosing a general access area with all users having access rights, said general access area being freely accessible); and
- c) at least a pair of read/write devices for simultaneously reading and/or writing information on each of the first and second devices so that each device has the same medical information thereon, and a computer system for each read/write device for controlling the type of information that can be read and/or written on the read/write devices, one read write device and computer system designed to allow for writing of non-medical information only, and the other read/write device and computer system

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designed to allow for writing both medical and non-medical information, (Wolf, p. 5, ¶ 2-p. 6, ¶ 1; p. 9, ¶ 2-p.14, ¶ 1) (the read/write devices are configured based on user access rights, i.e., some users can write general information, while only doctors would have access to write medical information).

Wolf fails to disclose a means for carrying the second device such that the second device can be accessed by medical personnel if a user is incapacitated. However, such a carrying device is well known in the art as evidenced by Armstrong, (Armstrong, Abstract, col. 5, line 56-col. 8, line 31) (disclosing wearing an electronic medical information card as a jewelry item such as a bracelet or necklace for access by emergency treatment personnel when the person is unconscious).

The statement of obviousness and motivation to combine Wolf and Armstrong is as provided in the rejection of claim 1 and incorporated herein by reference.

5. As per claim 4, Wolf discloses a system wherein the second device is read using a medical personnel reader when the user is incapacitated and cannot produce the first device, and the information read is one of displayed, played aloud, or transmitted to a remote source for reading or a combination thereof, (Wolf, Fig. 5; p. 5, ¶ 2-p. 6, ¶ 1; p. 9, ¶ 2-p.14, ¶ 1) (Fig. 5 discloses a format for displaying card information to a user).

The statement of obviousness and motivation to combine Wolf and Armstrong is as provided in the rejection of claim 1 and incorporated herein by reference.

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6. Claim 5 contains substantially the same limitations as claim 2 and therefore the reasons for the rejection of claim 2 are incorporated herein by reference.

7. As per claim 6, Wolf discloses a system for providing medical information in emergency and non-emergency situations comprising:

- a) a read/write device for reading and/or writing information on the medical information-containing electronic device, and a computer system for the read/write device for controlling the type of information that can be read and/or written on the read/write devices, (Wolf, p. 5, ¶ 2-p. 6, ¶ 1; p. 9, ¶ 2-p.14, ¶ 1) (the read/write devices are configured based on user access rights, i.e., some users can write general information, while only doctors would have access to write medical information), and
- b) a read only device for reading information on the medical information-containing electronic device, the second read only device separate from the first read/write device, (Wolf, p. 5, ¶ 2-p. 6, ¶ 1; p. 9, ¶ 2-p.14, ¶ 1).

Wolf fails to disclose the remaining limitations, such limitations being well-known in the art as evidenced by Armstrong.

- c) a medical information-containing electronic device and a carrier for storing the medical information-containing electronic device, the medical information pertaining to one of an the inanimate object or a patient, (Armstrong, Abstract, col. 5, line 56-col. 8, line 31) (disclosing wearing an electronic medical information card as a jewelry item such as a bracelet or necklace); and

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d) a means for attaching the carrier to one of the inanimate object or patient so that medical information about either the inanimate object and/or the patient can be obtained by using the read device, (Armstrong, Abstract, Fig. 3; col. 5, line 56-col. 8, line 31) (disclosing wearing an electronic medical information card as a jewelry item such as a bracelet or necklace).

The statement of obviousness and motivation to combine Wolf and Armstrong is as provided in the rejection of claim 1 and incorporated herein by reference.

8. As per claim 7, Wolf discloses a system comprising at least a pair of medical information-containing electronic devices, one to be worn by the patient, (Wolf, p. 5, ¶ 2-p. 6, ¶ 1; p. 9, ¶ 2-p.14, ¶ 1).

Wolf fails to disclose one attached to the inanimate object, containing the same information about the patient. However, attaching such a medical information containing device to an inanimate object is well known in the art as evidenced by Armstrong, (Armstrong, col. 7, lines 20-25 and col. 8, lines 1-5) (disclosing attaching the chip to tissue samples or dead bodies).

It would have been obvious to one of ordinary skill in the art at the time of the invention to duplicate the medical information-containing electronic devices for attachment to both a patient's body and an inanimate tissue sample. The motivation would be to verify the identity of the sample, (Armstrong, col. 7, lines 20-25).



9. Claim 9 contains substantially the same limitations as claim 4 and therefore the reasons for the rejection of claim 4 are incorporated herein by reference.

10. Claim 10 contains substantially the same limitations as claim 2 and therefore the reasons for the rejection of claim 2 are incorporated herein by reference.

11. The system of claim 2, further comprising a medical personnel reader capable of reading the first device, the second device, or both, (Wolf, Fig. 2; p. 5, ¶ 2-p. 6, ¶ 1; p. 9, ¶ 2-p.14, ¶ 1) (Fig. 2 discloses readers for each single card and both cards).

12. The system of claim 11, wherein the medical personnel reader is a phone capable of transmitting the read information, a portable reader with a display for displaying read information, or a reader than employs a spring loaded reading head, (Wolf, Fig. 12; p. 5, ¶ 2-p. 6, ¶ 1; p. 9, ¶ 2-p.14, ¶ 1)

Fig. 12 discloses a telephone card reader. Although a cell phone is not disclosed, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize current cell phone technology. The motivation would be to utilize the benefits of cell phones over land-based phones.

13. Claim 13 contains substantially the same limitations as claim 11 and therefore the reasons for the rejection of claim 11 are incorporated herein by reference.

14. Claim 14 contains substantially the same limitations as claim 12 and therefore the reasons for the rejection of claim 12 are incorporated herein by reference.

15. As per claim 15, Armstrong discloses a method wherein the reading of information on the second device is contactless and performed by transmitting information using a signal, (Armstrong, col. 2, lines 63-67) (disclosing transmitting information from a second device transmitter, which would inherently use a contactless signal).

The statement of obviousness and motivation to combine Wolf and Armstrong is as provided in the rejection of claim 1 and incorporated herein by reference.

16. As per claim 16, Wolf discloses a system wherein the medical-information containing device transmits the information to the read device for reading in a contactless manner using a signal for transmission, (Armstrong, col. 2, lines 63-67) (disclosing transmitting information from a second device transmitter, which would inherently use a contactless signal).

The statement of obviousness and motivation to combine Wolf and Armstrong is as provided in the rejection of claim 1 and incorporated herein by reference.

17. As per claim 17, Wolf discloses a system wherein the reading using the medical personnel reader is performed in a contactless manner using a signal from the second

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device, (Armstrong, col. 2, lines 63-67) (disclosing transmitting information from a second device transmitter, which would inherently use a contactless signal).

The statement of obviousness and motivation to combine Wolf and Armstrong is as provided in the rejection of claim 1 and incorporated herein by reference.

18. The system of claim 7, wherein the inanimate object is a tag associated with one of a medical record and a medical sample container, (Armstrong, col. 7, lines 20-25; col. 8, lines 1-5; claim 1) (disclosing attaching the chip to tissue samples, dead bodies, and storage containers).

The statement of obviousness and motivation to combine Wolf and Armstrong is as provided in the rejection of claim 1 and incorporated herein by reference.

**19. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf, (WO 97/22092) in view of Armstrong, (U.S. 6,140,936), and further in view of Oliver, (U.S. 4,327,512).**

20. As per claim 3, Armstrong discloses a means for carrying including a bracelet for the wrist and a necklace for the neck, (Armstrong, Col. 5, lines 56-66).

The collective system of Wolf and Armstrong fails to disclose a locket to be carried in a shoe or other clothing. However, such a system for carrying is well-known in the art as evidenced by Oliver, (Oliver, *passim*).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the collective system of Wolf and Armstrong with Oliver in the manner claimed by the applicant. The motivation would have been to attach information to persons who would not otherwise carry other identification means, such as children or joggers, (Oliver, lines 15-19).

21. Claim 8 contains substantially the same limitations as claim 3 and therefore the reasons for the rejection of claim 3 are incorporated herein by reference.

**22. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf, (WO 97/22092) in view of Armstrong, (U.S. 6,140,936), and further in view of Hettinger, (U.S. 6,155,409).**

23. As per claim 18, the collective system of Wolf and Armstrong fails to disclose a method wherein the means for carrying is one of a foldable locket, and a metal capsule having a lid. However, such a method is well-known in the art as evidenced by Hettinger, (Hettinger, Figs. 2-5, col. 2, lines 42-49; col. 4, lines 21-29).

Hettinger fails to disclose a metal capsule. However, Hettinger does provide a metal pin and a lid. It would be obvious to one of ordinary skill in the art in view of Hettinger to make a metal capsule with a lid. The motivation would be to make the locket waterproof, (Hettinger, col. 2, lines 42-49).

Hettinger fails to provide an extendable support. However, this feature is well known in the art as evidenced by Armstrong, (Armstrong, Fig. 2, col. 9, lines 3-9) (disclosing an extendable mechanism for protecting the memory card prior to inserting the memory card into a PCMCIA reader).

It would be obvious to one of ordinary skill in the art at the time of the invention to add Hettinger to the collective system of Wolf and Armstrong. The motivation would be to allow the memory card to be worn as a jewelry item, (Armstrong, abstract).

24. Claim 19 contains substantially the same limitations as claim 18 and therefore the reasons for the rejection of claim 18 are incorporated herein by reference.

25. Claim 20 contains substantially the same limitations as claim 18 and therefore the reasons for the rejection of claim 18 are incorporated herein by reference.

### ***Response to Arguments***

Applicant's arguments filed July 6, 2006 have been fully considered but they are not persuasive for the following reasons:

1. Applicant argues that Wolf fails to disclose both cards as user cards, one to be used in normal situations, and one to be used for at least emergency situations. This claim limitation fails to render the claim non-obvious over the combination of Wolf and Armstrong. The user card carried by the patient in Wolf can be used in both normal and

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emergency situations, thus performing the method of the two-card combination claimed by applicant, (Wolf, p. 18, ¶ 1). Furthermore, the mere duplication of parts, in this case making one card into two, fails to render the subject matter non-obvious over the cited references, (see MPEP 2144.04, citing *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)).

2. Applicant argues that Wolf fails to disclose a system wherein one device is for writing only non-medical information with another system writing both types of information. This claim limitation fails to render the claim non-obvious over the combination of Wolf and Armstrong. The omission of an element and its function is obvious if the function of the element is not desired, (see MPEP 2144.04, citing *Ex Parte Wu*, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989). In this case, the undesired function of writing medical information with one device is omitted.

3. Applicant argues that Wolf fails to disclose two separate systems with one being read-only. This claim limitation fails to render the claim non-obvious over the combination of Wolf and Armstrong because any one of the multiple read/write systems disclosed by Wolf can be instructed to function as read-only, (Wolf, p. 16, ¶ 1).

4. Applicant argues that the combination of Wolf and Armstrong fails to disclose requiring two electronic devices with matching information between a patient and an inanimate object. However, attaching such a medical information containing device to

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an inanimate object is well known in the art as evidenced by Armstrong, (Armstrong, col. 7, lines 20-25 and col. 8, lines 1-5) (disclosing attaching the chip to tissue samples or dead bodies). Furthermore, It would have been obvious to one of ordinary skill in the art at the time of the invention to duplicate the medical information-containing electronic devices for attachment to both a patient's body and an inanimate tissue sample. The mere duplication of parts, in this case making one card into two and using each card as instructed by the Armstrong reference, fails to render the subject matter non-obvious over the cited references, (see MPEP 2144.04, citing *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)).

5. Applicant argues that the combination of Wolf and Armstrong fails to disclose a contactless reader. However, Armstrong discloses transmitting information from a second device transmitter, which would inherently use a contactless signal, (Armstrong, col. 2, lines 63-67).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows: Wilkins, (U.S. 6,523,009); Behram et al., (U.S. 5,499,293); Wright et al., (U.S. Pub. 2002/0046061) and Snowden, (U.S. Pub. 2002/0026332).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a



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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RSG  
9/14/2006

AS6

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER